

EXHIBIT E

From: Christopher Abraham <christopher.abraham@nara.gov>
Sent: Wednesday, September 12, 2018 7:38 AM
To: Graham Smith <GSmith@npr.org>
Subject: FOIA Case No. 58497 re "SELMA" boxes

Dear Mr. Smith,

I am writing in response to your Freedom of Information Act request of August 29, 2018 for records in the custody of the National Archives and Records Administration. Given the lack of identifying information surrounding the records you describe, you agreed to let us research your request prior to logging it in to our systems. Prior to this, I understand you also spoke with the former Special Access and FOIA director, Martha Murphy, who was unable to identify the records you request. Your request was received in this office on August 31, 2018, logged in on September 7, 2018 and assigned FOIA case number 58497. You will recall that I called and spoke with you about this request on the same day.

With your request you provided a July 16, 2009 redacted FBI document titled *Civil Rights Era Cold Cases Investigative Process and Results* and requested access to specific containers said to be marked "Selma" described within the document, apparently holding excerpts from 44-HQ-28516 (Jimmie Lee Jackson) and other cases.

I note that the case numbers you cite in your message, James Reeb (44A-MO-45942) and Jimmie Lee Jackson (282A-MO-45941) appear to be the case numbers for the FBI's reinvestigation of those two civil rights cold cases. The 2009 document you provide indicates that both cases were reinvestigated beginning in July 2008, far too recently for the associated documentation to have been accessioned into the National Archives. I have checked our finding aids to confirm that we do not have these particular case numbers in our collections.

I have searched our collections for boxes pertaining to James Reeb, Jimmie Lee Jackson and Viola Liuzzo marked "Selma" and have been unable to locate them. As I explained during our call of August 31, the National Archives does not mark boxes in the way described by the 2009 FBI document you provided:

"...the U.S. National Archives maintains several boxes of documents, simply marked 'SELMA,' and the excerpts from the FBI case files, to include the photographs, were in these boxes." [Pg. 3]

"The documents were in a box labeled 'SELMA.'" [Pg. 5]

Archives box labels show record group numbers, finding aid notations, container numbers, series designations and other instances of metadata, so the FBI's references to boxes simply marked "Selma" are a mystery to us. As I theorized during our conversation, they may have been "dummy" boxes used to serve files on a given topic just for the duration of a research visit, but even that is a stretch as our "dummy" boxes are not marked that way either.

Additionally, the National Archives does not have access to an unredacted version of the FBI's 2009 document and thus cannot determine the identities of the employees whose names were redacted, which might have helped. Both you and I took references to "Walker" to mean NARA archivist Allan Walker, but he was unable to recall anything regarding boxes marked "Selma" and a search of his files failed to point to any such containers. I also consulted with previous office directors as well as employees of the Special Access and FOIA office who were here at the time of the 2008 visit described in the document. Similarly, none of them recalled the visit or any boxes marked "Selma."

Therefore, we must close your case due to the fact that we do not have responsive records. I regret not being able to locate the containers you sought. During our telephone call you indicated that you would speak with the office of Michael W. Jackson (whom you believe to be the District Attorney referenced in and redacted from the 2009 FBI letter) in an attempt to determine what it was he may have seen during his visit to NARA. In the event that he is able to provide you with any additional information or you locate any additional information that may help target a search, we will be glad to revisit the issue. This response is not considered a denial of your request under the terms of the FOIA because we are unable to locate the records you describe.

This concludes the processing of your request. If you have additional questions, please contact me directly at christopher.abraham@nara.gov or 301-837-2958.

If you are not satisfied with our action on this request, you have the right to file an administrative appeal within ninety (90) calendar days from the date of this letter. Appeals must be in writing and may be delivered by regular U.S. mail or by e-mail. By filing an appeal, you preserve your rights under the Freedom of Information Act and present the deciding agency with an opportunity to review your request and reconsider its decision. If you submit your appeal by regular mail, it should be addressed to the Deputy Archivist of the United States (ND), National Archives and Records Administration, 8601 Adelphi Road, Room 4200, College Park, Maryland 20740-6001. Both the letter and envelope should be clearly marked "FOIA Appeal." If you submit your appeal by e-mail, please send it to foia@nara.gov, addressed to the Deputy Archivist, with the words "FOIA Appeal" in the subject line. Please be certain to explain why you believe this response does not meet the requirements of the Freedom of Information Act. All communications concerning this request should reference FOIA case number 58497.

If you would like the opportunity to discuss our response and attempt to resolve your dispute without initiating the appeals process, you may contact our FOIA Public Liaison for assistance:

Accessioned Executive Branch Records – Washington, DC Area

FOIA Requester Service Center: 301-837-3190

Acting FOIA Public Liaison: Britney Crawford

8601 Adelphi Road, Room 5500

College Park, MD 20740-6001

Telephone: 301-837-3270

E-mail: dc.foia.liaison@nara.gov

If you are unable to resolve your dispute through our Public Liaison, the Office of Government Information Services (OGIS) is the federal FOIA ombudsman. OGIS offers mediation services to help resolve disputes between FOIA requesters and federal agencies. You may contact OGIS at the following address:

Office of Government Information Services (OGIS)

National Archives and Records Administration

8601 Adelphi Road, Room 2510

College Park, MD 20740-6001

ogis@nara.gov

202-741-5770

1-877-684-6448

More broadly, during my search for the "Selma" boxes I was able to locate three FBI files pertaining to Jackson, Reeb, and Liuzzo. The 2009 document you provided erroneously reported that Jackson's FBI headquarters file was destroyed. It appears that the FBI was incorrect because it cites the wrong file number, 44-HQ-18516. The correct file number is 44-HQ-28516. This civil rights investigation totals 338 pages and was reviewed in 2007. The file has been redacted to preserve the secrecy of grand jury proceedings per 5 USC 552 (b)(3), pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure; and protect the personal privacy of living individuals per 5 USC 552 (b)(6) and 5 USC 552 (b)(7)(C). A summary of the results of the review is provided below:

FBI file 44-HQ-28516: 338 total pages; 276 pages released in full, 30 pages released in redacted form, and 32 pages withheld in full.

If you wish, you may request access to this file as it sits. You may also request a "De Novo" rereview of the 62 redacted or closed pages under a new FOIA request.

I was also able to locate FBI headquarters files pertaining to James Reeb (44-HQ-28441) and the death of Viola Liuzzi (44-HQ-28601). They will need to be the subject of a new FOIA request if you wish to receive access to them.

Sincerely,

Chris Abraham

Archivist

Special Access and FOIA Branch (RD-F)

301.837 2958

www.archives.gov/research/foia/

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